

**§ 2411. Prohibition against interment or memorialization in the National Cemetery Administration or Arlington National Cemetery of persons committing Federal or State capital crimes**

(a)(1) In the case of a person described in subsection (b), the appropriate Federal official may not—

(A) inter the remains of such person in a cemetery in the National Cemetery Administration or in Arlington National Cemetery; or

(B) honor the memory of such person in a memorial area in a cemetery in the National Cemetery Administration (described in section 2403(a) of this title) or in such an area in Arlington National Cemetery (described in section 2409(a) of this title).

(2) In the case of a person described in subsection (b)(1) or (b)(2), the prohibition under paragraph (1) shall not apply unless written notice of a conviction referred to in subsection (b)(1) or (b)(2), as the case may be, is received by the appropriate Federal official before such official approves an application for the interment or memorialization of such person. Such written notice shall be furnished to such official by the Attorney General, in the case of a Federal capital crime, or by an appropriate State official, in the case of a State capital crime.

(b) A person referred to in subsection (a) is any of the following:

(1) A person who has been convicted of a Federal capital crime for which the person was sentenced to death or life imprisonment.

(2) A person who has been convicted of a State capital crime for which the person was sentenced to death or life imprisonment without parole.

(3) A person who—

(A) is found (as provided in subsection (c)) to have committed a Federal capital crime or a State capital crime, but

(B) has not been convicted of such crime by reason of such person not being available for trial due to death or flight to avoid prosecution.

(c) A finding under subsection (b)(3) shall be made by the appropriate Federal official. Any such finding may only be made based upon a showing of clear and convincing evidence, after an opportunity for a hearing in a manner prescribed by the appropriate Federal official.

(d) For purposes of this section:

(1) The term “Federal capital crime” means an offense under Federal law for which the death penalty or life imprisonment may be imposed.

(2) The term “State capital crime” means, under State law, the willful, deliberate, or premeditated unlawful killing of another human being for which the death penalty or life imprisonment without parole may be imposed.

(3) The term “appropriate Federal official” means—

(A) the Secretary, in the case of the National Cemetery Administration; and

(B) the Secretary of the Army, in the case of Arlington National Cemetery.

(Added Pub. L. 105-116, §1(a), Nov. 21, 1997, 111 Stat. 2381; amended Pub. L. 105-368, title IV,

§ 403(d)(1), Nov. 11, 1998, 112 Stat. 3339; Pub. L. 107-330, title II, § 202, Dec. 6, 2002, 116 Stat. 2824.)

**AMENDMENTS**

2002—Subsec. (a)(2). Pub. L. 107-330 substituted “In the case of a person described in subsection (b)(1) or (b)(2), the prohibition” for “The prohibition” and “referred to in subsection (b)(1) or (b)(2), as the case may be,” for “or finding under subsection (b)”.

1998—Pub. L. 105-368, § 403(d)(1), substituted “Administration” for “System” in section catchline.

Subsecs. (a)(1)(A), (B), (d)(3)(A). Pub. L. 105-368, § 403(d)(1), substituted “Administration” for “System”.

**EFFECTIVE DATE**

Section 1(c) of Pub. L. 105-116 provided that: “Section 2411 of title 38, United States Code, as added by subsection (a), shall apply with respect to applications for interment or memorialization made on or after the date of the enactment of this Act [Nov. 21, 1997].”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 112, 2301, 2306, 2408 of this title.

**PART III—READJUSTMENT AND RELATED BENEFITS**

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30.	All-Volunteer Force Educational Assistance Program .....	3001
31.	Training and Rehabilitation for Veterans with Service-Connected Disabilities .....	3100
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39.	Automobiles and Adaptive Equipment for Certain Disabled Veterans and Members of the Armed Forces .....	3901
41.	Job Counseling, Training, and Placement Service for Veterans .....	4100
42.	Employment and Training of Veterans .....	4211
43.	Employment and Reemployment Rights of Members of the Uniformed Services .....	4301

**AMENDMENTS**

1994—Pub. L. 103-446, title XII, §1201(h)(1), Nov. 2, 1994, 108 Stat. 4688, struck out item for chapter 42 and added identical new item for chapter 42.

Pub. L. 103-353, §2(b)(1), Oct. 13, 1994, 108 Stat. 3169, substituted “Employment and Reemployment Rights of Members of the Uniformed Services” and “4301” for “Veterans' Reemployment Rights” and “2021” in item for chapter 43.

1991—Pub. L. 102-83, §5(b)(2), Aug. 6, 1991, 105 Stat. 406, substituted “3001” for “1401” in item for chapter 30, “3100” for “1500” in item for chapter 31, “3201” for “1601” in item for chapter 32, “3451” for “1651” in item for chapter 34, “3500” for “1700” in item for chapter 35, “3670” for “1770” in item for chapter 36, “3701” for “1801” in item for chapter 37, “3901” for “1901” in item for chapter 39, “4100” for “2000” in item for chapter 41, and “4211” for “2011” in item for chapter 42.

Pub. L. 102-16, §9(c)(2), Mar. 22, 1991, 105 Stat. 55, struck out “Disabled and Vietnam Era” after “Employment and Training of” in item for chapter 42.

1984—Pub. L. 98-525, title VII, §702(a)(2), Oct. 19, 1984, 98 Stat. 2563, added item for chapter 30.

1982—Pub. L. 97-306, title III, §301(b)(2), Oct. 14, 1982, 96 Stat. 1437, substituted “2000” for “2001” in item for chapter 41.

Pub. L. 97-295, §4(35)(A), Oct. 12, 1982, 96 Stat. 1307, substituted “1500” for “1,500” in item for chapter 31.